HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Writ Petition No. 187 of 2006 (M/S)

Sandeep Karnwal
S/o Subhash Chandra Karnwal
R/o Village & P.S. Chappar
District Muzzafarnagar, U.P. .....Applicant

Versus

1. Principal Judge, Family Court, Dehradun
2. Smt. Archana Karnwal
   W/o Shri Sandeep Karnwal
   D/o Shri Chandra Bhan Karnwal
   R/o Mata Mandir Road, Ajabpur Kalan
   P.S. Dalanwala
   District Dehradun. .....Respondents

Hon'ble J.C.S. Rawat, J.

Heard Sri Rajendra Singh learned counsel for the applicant and Sri A. Rab Addl. G.A. for the State.

The petition under section 226/227 of the Constitution of India has been filed for setting aside the impugned order dated 5.12.2005 passed by the Principal Judge, Family Court, Dehradun in case No. 259/2004 Archana Karnwal Vs. Sandeep Karnwal under section 125 Cr.P.C., whereby the husband-Sandeep Karnwal was directed to pay RS.2000/- p.m. as interim maintenance to his wife-Smt. Archana Karnwal.

It is admitted that that the marriage was solemnized between the applicant and Smt. Archana Karnwal on 28.12.2001 according to Hindu rites and customs. It is not dispute that the parties are living separately and their relations are strained. The respondent No.2-Smt. Archana Karnwal filed an application under section 125 Cr.P.C. in the court of Principal Judge, Family Court, Dehradun alleging therein that Sandeep Karanwal is earning Rs.32,000/- from different sources and he has no responsibility except his wife. The husband had filed the objections before the

court below and the husband has filed a petition under section 9 of the Hindu Marriage act, 1955. The trial court after considering the objections and the evidence on record allowed the application filed under section 125 Cr.P.C. and awarded a sum of Rs.2000/- p.m. to the respondent No.2-wife as interim maintenance allowance. Feeling aggrieved, the applicant has filed the present petition before this Court.

The applicant-husband had neglected to maintain his wife. It is an admitted case that the applicant-husband is an able-bodied person. There is no evidence on record that the applicant is handicapped person. The applicant is an able-bodied person and he can earn his livelihood and maintain his wife. The applicant has neglected to maintain his wife and the respondent-wife is not able to maintain herself. Applicant has sufficient means to pay the maintenance to the respondent-wife. As such, the respondent-wife is entitled to get the interim maintenance from her husband-applicant.

In view of the above, I am in completely agreement with the findings given by the court below.

The petition devoids of merit and is dismissed accordingly.

(J.C.S. Rawat, J.)

Dated 03.03.2006
LSR